

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROGER EMMETT CLINE,

Petitioner,

v.

CIVIL ACTION NO. 1:06-CV-123

WILLIAM M. FOX, Warden,

Respondent.

REPORT AND RECOMMENDATION THAT APPLICATION TO PROCEED
IN FORMA PAUPERIS BE DENIED AS MOOT

On August 17, 2006, *pro se* Petitioner, Roger Emmett Cline, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and an Application to Proceed *in forma pauperis*. Petitioner paid the \$5 filing fee on August 29, 2006, rendering the Application to Proceed *in forma pauperis* moot.

Accordingly, it is recommended that Petitioner's August 17, 2006 Application to Proceed *in forma pauperis* be **DENIED AS MOOT**.

The petitioner may file within ten (10) days from the date of this Recommendation, with the Clerk of the Court written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections should also be submitted to the District Court Judge of Record. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984);

The Clerk of the Court is directed to mail a copy of this Recommendation to the *pro se* petitioner and all counsel of record, as applicable.

DATED: August 30, 2006

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE